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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/802,492	03/09/2001	Stephen Belth	12166-0002	7458
7590	04/17/2006			EXAMINER LE, KHANH H
Intellectual Property Group Bose McKinney & Evans LLP Suite 2700 135 North Pennsylvania Street Indianapolis, IN 46204			ART UNIT 3622	PAPER NUMBER

DATE MAILED: 04/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/802,492	BELTH, STEPHEN	
	Examiner	Art Unit	
	Khanh H. Le	3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 27 December 2005.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-3, 5-9, 11-14, 16-19, 21-30, and 32-38 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-3, 5-9, 11-14, 16-19, 21-30, and 32-38 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This office Action is responsive to the Correspondence dated December 27, 2005, (herein the “Response”). Claims 4, 10, 15, 20, 31 are cancelled. Claims 1-3, 5-9, 11-14, 16-19, 21-30, and 32-38 are pending. Claims 1, 12, 21, 27, 32, and 36 are independent.

Claim Rejections - 35 USC § 112

2. The rejection of Claims 4, 10, 11, 15, 20, 31 under 35 U.S.C. 112, second paragraph, are withdrawn as moot or because of adequate corrections.

Response to Arguments

3. The Applicant’s declaration and exhibits have been considered. Facts in Exhibits F and G show sufficient reduction to practice to antedate Fedorovsky et al, US 2002/0099798 which was used in an earlier rejection of most claims under 35 U.S.C. 103(a). The rejection is withdrawn. Applicant’s other arguments are moot in view of new prior art applied.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 1-3, 5, 7-9, 11, 13-14, 21-30, and 32-38 are rejected under as being unpatentable over Tiley et al, US 7,020,623, herein Tiley.**

As to claims 1-2, 5, 21-22, and 32-33, Tiley discloses a method of inducing a purchaser to visit a retail outlet at a remote location and of inducing a retail outlet to act as such a remote location wherein textual, audio or video targeted e-mail messages are directed to individuals (col. 4 lines 36-58) and/or wherein individuals are directed to individual web pages to view ads (col. 15 lines 45 to col. 16 line 7).

Thus Tiley discloses

A marketing system for communicating with a targeted individual, the marketing system, comprising:

a processor;

a database accessible by the processor including data related to the targeted individual (see col.15 line 62+) and an identifier (col. 17 lines 10-17) ;

a resource including an address and an input (at least a web page for the user to place an order) (see at least Figs. 1-2 and associated text; col. 19 lines 50-57); and

the processor adapted to present the targeted individual with a resource or media (the email) , the resource or media (the email) including an audio component (col. 4 lines 36-58), the audio component targeted to the individual wherein the media is presented in response to the identifier being provided to the input of the resource. (see at least Figs 1-4 and associated text; col. 4 lines 36-58; col. 19 lines 50-57: the email is in response to an order placed at a webpage in which the customer inputs his identifier such as a name).

Tiley further discloses the marketing email has a generic marketing portion (col. 17 lines 40-62, especially line 5: generic ad to all purchasers) and a “tailored portion configured based on the data related to the targeted individual (col. 17 lines 55-62: “merging ...into individualized

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advertising or email,..including references to purchaser by name ”. It is interpreted the Tiley customer name is derived from a customer database.) .

Tiley does not specifically disclose the marketing audio component has a generic marketing portion and a “tailored portion configured based on the data related to the targeted individual” and “the first targeted portion including an audio recording of the name of the targeted individual”. However, Tiley teaches audio components in emails (col. 4 lines 36-58). It would have been obvious to one skilled in the art at the time the invention was made to add to Tiley’s email marketing audio component a generic marketing portion and a “tailored portion configured based on the data related to the targeted individual” and “the first targeted portion including an audio recording of the name of the targeted individual” to allow personalizing the audio part of the marketing email, in the same manner and for the same advantages, as was done with the textual part (Tiley, col. 17 lines 55-62: “ merging …into individualized advertising or email,..including references to purchaser by name ”). .

Further, as to claims 3, 23, 34-35,
TILEY discloses the message includes a (second) tailored portion based on a first value of a first characteristic of the targeted individual, for example what she just purchased (see TILEY col. 17 lines 58-60).

Tiley does not specifically disclose such second tailored portion is an audio part. However, Tiley teaches audio components in emails (col. 4 lines 36-58). It is thus obvious from all the previously discussed teachings in TILEY, in case an audio component is used in emails, that the second tailored portion would be an audio portion to allow personalizing the audio part of the marketing email, in the same manner and for the same advantages, as was done with the textual part (Tiley, col. 17 lines 55-62).

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Selecting a recording from a plurality of audio recordings for delivery of the one recording is further commonly done. It would then be obvious that such a second audio recording would be selected from a plurality of audio recordings to effect delivery of the audio part.

As to claims 13-14, which parallel claims 2-3, they are rejected on the same basis.

As to claims 7-9, 11, 24-26, 27-30, 36-38,

Tiley does not specifically disclose a marketing visual component with a generic marketing portion in addition to a tailored portion. However, Tiley discloses video (“a visual component”) targeted e-mail ~~messages are~~ directed to individuals (col. 4 lines 36-58) wherein individuals are directed to individual web pages to view further ads (col. 15 lines 45 to col. 16 line 7; col. 16 lines 19-32). Tiley also discloses personalized emails as discussed above with merged personalized portions.

Thus it would be obvious, from the previously discussed Tiley’s teachings, to add to Tiley’s marketing visual component a generic marketing portion in addition to a tailored portion including a visual component to allow personalizing the visual part of the marketing email, in the same manner and for the same advantages, as was done with the textual part (Tiley, col. 17 lines 55-62).

(Other additional limitations of the dependent claims 8-9, 25-26, 29-30, 37-38, common to those of claims 2-3, or 13-14 are rejected on the same basis).

6. Claims 6 , 12 and 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tiley in view of Shane, US 5793972.

As to claims 6 and 12 which, in addition to the limitations common to the independent claims addressed above, further claim “the first media including the address of the resource and

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at least a first portion of the data in the database related to the targeted individual, the first portion including an identifier”, and ‘wherein the identifier is not a component of the address of the resource”, it is interpreted that the first media here means an email is sent to the consumer with the Url of the site and an identifier for the user to use to access a special resource, such as a webpage.

Tiley discloses textual, audio or video targeted e-mail messages are directed to individuals (col. 4 lines 36-58) wherein individuals are directed to individual or specifically created web pages to view further ads (col. 15 lines 45 to col. 16 line 7; col. 16 lines 19-32). Tiley does not specifically disclose but Shane discloses use of URLs and unique user identifiers sent in regular mail or emails to direct users to personalized interactive webpages formed from the unique identifiers and correlated user data (abstract, Figs 1-2 and associated text).

It would have been obvious to one skilled in the art at the time the invention was made to add these features of Shane to Tiley to effect the purpose disclosed in Tiley, i.e., to allow and encourage the purchaser to view those individual or specifically created websites web pages (Tiley, col. 16 lines 1-5; col. 16 lines 19-32).

As to claim 16 , as to “ the identifier is not a component of the address of the resource”, it is interpreted that the first media here means an email is sent to the consumer with the Url of the site and an identifier for the user to use to log-in to a special resource, consistent with the Specifications Figure 8.

Official Notice is taken that it is well-known certain websites, such as personalized ones, restrict access by requiring entry of user identifiers (such as a name, password or other code) for security/privacy purposes. Tiley discloses textual, audio or video targeted e-mail messages are directed to individuals (col. 4 lines 36-58) wherein individuals are directed to individual or specifically created web pages to view further ads /content(col. 15 lines 45 to col. 16 line 7; col. 16 lines 19-32). It would have been obvious to one skilled in the art at the time the invention was

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made to add to Tiley's emails, instructions directing users to enter their identifiers (e.g. names) to the personalized or specifically created websites to securely view the personalized or specifically created content. Thus Tiley/Shane in view of the above-known facts disclose "the identifier is not a component of the address of the resource".

As to claims 17-19,

Tiley does not specifically disclose a marketing visual component with a generic marketing portion in addition to a tailored portion. However, Tiley discloses video ("a visual component") targeted e-mail ~~messages~~ directed to individuals (col. 4 lines 36-58) wherein individuals are directed to individual web pages to view further ads (col. 15 lines 45 to col. 16 line 7; col. 16 lines 19-32). Tiley discloses personalized emails as discussed above with merged personalized portions.

Thus it would be obvious, from the previously discussed Tiley's teachings, to add to Tiley's marketing visual component a generic marketing portion in addition to a tailored portion including a visual component to allow personalizing the visual part of the marketing email, in the same manner and for the same advantages, as was done with the textual part (Tiley, col. 17 lines 55-62).

(Other additional limitations of the dependent claims 18-19, common to those of claims 2-3, or 13-14 are rejected on the same basis).

Conclusion

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khanh H. Le whose telephone number is 571-272-6721. The Examiner works a part-time schedule and can normally be reached on Tuesday-Wednesday 9:00-6:00.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Eric Stamber can be reached on 571-272-6724. The fax phone numbers for the organization where this application or proceeding is assigned are **571-273-8300** for regular communications and for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-3600. For patent related correspondence, hand carry deliveries must be made to the Customer Service Window (now located at the Randolph Building, 401 Dulany Street, Alexandria, VA 22314).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

April 11, 2006

KHL *[Signature]*

Raquel Alvarez
RAQUEL ALVAREZ
PRIMARY EXAMINER